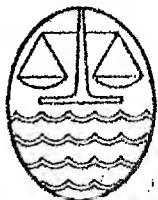




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Fiji, Indonesia, Mauritius and Philippines: draft
articles relating to archipelagic States

These draft articles are largely based on proposals contained in documents A/AC.138/SC.II/L.15 1/ and A/AC.138/SC.II/L.48 2/ submitted to the Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limits of National Jurisdiction.

1/ Official Records of the General Assembly, Twenty-eighth Session, Supplement No. 21 (A/9021, vol. V, item 16, p. 1).

2/ Ibid., (A/9021, vol. III, pp. 102-105).

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Article 1

1. These articles apply only to archipelagic States.
2. An archipelagic State is a State constituted wholly by one or more archipelagos and may include other islands.
3. For the purpose of these articles an archipelago is a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political entity, or which historically have been regarded as such.

Article 2

1. An archipelagic State may employ the method of straight baselines joining the outermost points of the outermost islands and drying reefs of the archipelago in drawing the baselines from which the extent of the territorial sea, economic zone and other special jurisdictions are to be measured.
2. The drawing of such baselines shall not depart to any appreciable extent from the general configuration of the archipelago.
3. Baselines shall not be drawn to and from low-tide elevations unless lighthouses or similar installations which are permanently above sea level have been built on them or where a low-tide elevation is situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the nearest island.
4. The system of straight baselines shall not be applied by an archipelagic State in such a manner as to cut off the territorial sea of another State as determined under article _____ of chapter _____ of this Convention.
5. If the drawing of such baselines encloses a part of the sea which has traditionally been used by an immediately adjacent neighbouring State for direct communication, including the laying of submarine cables and pipelines, between one part of its national territory and another part of such territory, the continued right of such communication shall be recognized and guaranteed by the archipelagic State.
6. An archipelagic State shall clearly indicate its straight baselines on charts to which due publicity shall be given.

Article 3

1. The waters enclosed by the baselines, which waters are referred to in these articles as archipelagic waters, regardless of their depth or distance from the coast, belong to, and are subject to the sovereignty of, the archipelagic State to which they appertain.
2. The sovereignty and rights of an archipelagic State extend to the air space over its archipelagic waters as well as to the water column and the sea-bed and subsoil thereof and to all of the resources contained therein.

/...

Article 4

Subject to the provisions of article 5, ships of all States /whether coastal or not/ shall enjoy the right of innocent passage through archipelagic waters.

Article 5

1. An archipelagic State may designate sealanes suitable for the safe and expeditious passage of foreign ships through its archipelagic waters, and may restrict the passage of such ships, or any types or classes of such ships, through those waters to any such sealanes.

2. An archipelagic State may, from time to time, after giving due publicity thereto, substitute other sealanes for any sealanes previously designated by it under the provisions of this article.

3. An archipelagic State which designates sealanes under the provisions of this article may also prescribe traffic separation schemes for the passage of such ships through those sealanes.

4. In the designation of sealanes and the prescription of traffic separation schemes under the provisions of this article an archipelagic State shall, inter alia, take into account:

- (a) the recommendations or technical advice of competent international organizations;
- (b) any channels customarily used for international navigation;
- (c) the special characteristics of particular channels; and
- (d) the special characteristics of particular ships.

5. An archipelagic State shall clearly demarcate all sealanes designated by it under the provisions of this article and indicate them on charts to which due publicity shall be given.

6. An archipelagic State may make laws and regulations, not inconsistent with the provisions of these articles and having regard to other applicable rules of international law, relating to passage through its archipelagic waters, or the sealanes designated under the provisions of this article, which laws and regulations may be in respect of all or any of the following:

- (a) the safety of navigation and the regulation of marine traffic;
- (b) the installation, utilization and protection of navigational aids and facilities;

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- (c) the installation, utilization and protection of facilities or installations for the exploration and exploitation of the marine resources, including the resources of the sea-bed and subsoil, of the archipelagic waters;
- (d) the protection of submarine or aerial cables and pipelines;
- (e) the conservation of the living resources of the sea;
- (f) the preservation of the environment of the archipelagic State, and the prevention of pollution thereto;
- (g) research in the marine environment, and hydrographic surveys;
- (h) the prevention of infringement of the fisheries regulations of the archipelagic State, including inter alia those relating to the stowage of gear;
- (i) the prevention of infringement of the customs, fiscal, immigration, quarantine, sanitary and phytosanitary regulations of the archipelagic State; and
- (j) the preservation of the peace, good order and security of the archipelagic State.

7. The archipelagic State shall give due publicity to all laws and regulations made by it under the provisions of this article.

8. Foreign ships exercising the right of innocent passage through the archipelagic waters or the sealanes designated under the provisions of this article shall comply with all laws and regulations made by the archipelagic State under the provisions of this article.

9. If any foreign warship does not comply with the laws and regulations of the archipelagic State concerning its passage through the archipelagic waters or the sealanes designated under the provisions of this article and disregards any request for compliance which is made to it, the archipelagic State may suspend the passage of such warship and require it to leave the archipelagic waters by such safe and expeditious route as may be designated by the archipelagic State.

10. Subject to the provisions of paragraph 9 of this article, an archipelagic State may not suspend the innocent passage of foreign ships through sealanes designated by it under the provisions of this article, except when essential for the protection of its security, after giving due publicity thereto and substituting other sealanes for those through which innocent passage has been suspended.

/The foregoing provisions relating to archipelagic States are without prejudice to the régime concerning coastlines deeply indented and cut into and to the waters enclosed by a fringe of islands along the coast./